

CHAPTER: XVI INTENTIONAL PROGRAM VIOLATIONS	SECTION: 1 INTENTIONAL PROGRAM VIOLATIONS	COMAR: 07.03.03.17
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REQUIREMENTS

- A. Inform all customers, in writing, using the DHR/FIA Rights and Responsibilities Form, during application or reapplication of the penalties for an Intentional Program Violation (IPV)
- B. An IPV occurs when an individual either signs the waiver of the right to an administrative disqualification hearing or is convicted in a court of law of intentionally:
 1. Making false or misleading statements for the purpose of establishing or maintaining eligibility for cash assistance or:
 - To increase the cash assistance amount or
 - Prevent a reduction in the cash assistance amount
 2. Misrepresenting, concealing, or withholding facts in an attempt to receive benefits to which they are not entitled

INVESTIGATION PROCESS

- A. Case managers receiving information alleging a customer in an active case committed suspected fraud:
 1. Verify the information by phone or letter, when possible
 2. Refer the case, if it is determined a field investigation is required, to the:
 - Local fraud investigator, or
 - Office of the Inspector General (OIG)
- B. If the suspected fraud is investigated locally, the local fraud investigator:
 1. Reviews the case record for background information
 2. Confirms or refutes the accusations through a field investigation and prepares a report
 3. Determines whether to refer the case to the State's Attorney's Office or for an Administrative Disqualification Hearing (ADH)
 4. May obtain a signed ADH waiver from the customer
- C. If OIG accepts a case, they:
 1. Conduct an investigation of the suspected fraud

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2. Prepare a report on the completed investigation describing how the information was obtained
3. May obtain a signed ADH waiver from the customer
4. Notify the local department of the result by report or letter
5. Refer the case to the State's Attorney's Office for possible prosecution
 - If the State's Attorney decides not to prosecute, OIG notifies the local department to begin the administrative disqualification process

DISQUALIFICATION PROCESS

- A. The local department provides individuals suspected of fraud with a list of individuals or organizations providing free legal representation
- B. If the State's Attorney does not accept a suspected fraud case, the local department may pursue civil action through an ADH
 1. Local departments can make an ADH referral whether or not the individual is currently eligible
 2. The customer may admit to the violation by signing an ADH waiver at any time during the hearing process
 3. The ADH judge decides on the merits of the information provided in the hearing and renders a binding judgement

ADH REFERRALS

- A. Civil action can be pursued through an ADH unless:
 1. The case is being referred for prosecution
 2. Action was already taken against the person by the State's Attorney, or a court of appropriate jurisdiction, when the factual issues of their case arose out of the same or related circumstances
 3. The customer waives the right to an ADH and, if so, the local department:
 - Provides written notice to the customer of the effective date of disqualification, then
 - Applies the disqualification penalty

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Note: A customer, who disagrees with the repayment amount or method, may request a fair hearing. The fair hearing decision does not alter the disqualification penalty.

- B. Prior to notifying the customer of the intent to make a referral to the Office of Administrative Hearings (OAH) for an ADH, the local department makes sure:
1. A supervisor or a designated person other than the case manager reviews the evidence against the customer
 2. The evidence warrants scheduling an ADH
- C. Include the following in written advance notifications to the customer of referral to the OAH:
1. A summary of the charge against the individual
 2. The evidence supporting the charge
 3. The name and telephone number of the local department contact person
 4. Information on the ADH process
- D. Send the information on the ADH process to the customer including the:
1. Option to waive the right to an ADH, and:
 - The date by which the local department must receive the waiver (no more than 20 days after mailing the advance notification)
 - A statement that the caretaker relative in the assistance unit must also sign the waiver, if the individual suspected of fraud is someone other than assistance unit's caretaker relative
 - A statement that the customer's signature on the waiver will disqualify and reduce or terminate benefits for the assistance unit
 2. Right to remain silent concerning the charge because anything the customer says or signs may be used in future administrative or judicial proceedings
 3. Opportunity for the customer to admit to the facts presented by the local department
 4. Statement that disqualified customers and any remaining adult members of their assistance unit are responsible for repayment of any claim for reimbursement of benefits to which they were not entitled due to the suspected fraud

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- E. If a signed waiver is not received from the customer within 20 days of notification of intent to file for an ADH , the local department sends a referral to OAH that includes:
1. The identifying case information
 2. A summary of the suspected fraud
 3. A copy of the local department's supporting documentation, including any previous:
 - IPV disqualification
 - Conviction in court of fraud involving cash assistance

DISQUALIFICATION HEARINGS

- A. When a customer requests a hearing the:
1. Local department sends the household a written summary of the evidence and how and where it can be examined
 2. OAH sends the assistance unit, at least 30 days in advance, a written notice that a hearing is scheduled and makes the record available to the household or its representative at any reasonable time for inspection and duplication
- B. Combine a separate cash assistance ADH, food stamp ADH, or fair hearing (food stamps or cash assistance) into a single hearing if the:
1. Disputed facts arise from the same set of circumstances, and
 2. Assistance unit receives prior notice that the hearings will be combined
- C. If the hearings are combined, the:
1. OAH follows the time frames for conducting cash assistance disqualification hearings
 2. Assistance unit loses its right to a subsequent fair hearing on the amount of the claim
 3. OAH, at the assistance unit's request, waives the 30-day advance notice period
- D. The customer may request one postponement of the scheduled hearing if the:
1. Request is made before the date and time of the hearing

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2. Hearing is not postponed more than 30 days
- E. Within 90 days of notification of the date and time of the ADH, the OAH:
1. Conducts the hearing
 2. Reaches a decision, and
 3. Notifies the customer and the local department of the decision and the right to judicial review

Note: If the hearing is postponed, the 90 days is extended for as many days as the postponement.

- F. When an administrative law judge finds that the customer committed an IPV, the local department provides written notice of the effective disqualification date to the assistance unit before imposing the sanction

SANCTIONS

- A. The local department, except if the disqualification hearing is pending, reduces or terminates the assistance unit's benefit if all of the following are met:
1. The documentation supports the action
 2. The assistance unit did not request a fair hearing
 3. Benefits continued after receipt of the notice of termination or an IPV occurred prior to closing the case for other reasons
- B. The IPV sanction period begins the first month after the month in which the customer receives written notice of disqualification
1. Sanctions are imposed on both active and closed cases
 2. Once imposed, the disqualification period continues uninterrupted until the benefit is fully repaid or the time period is completed, whichever comes first (the amount of fraudulently received benefits must still be repaid if there is an outstanding debt when the disqualification period ends)
 3. When an assistance unit has been sanctioned, the local department sends a demand letter informing the household of the:
 - Amount owed
 - Reason for the claim

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- Period of time the claim covers
 - Ways to reduce the claim amount
 - Ways in which the claim can be paid
 - Right to a fair hearing if the customer disagrees with the amount of the claim unless a fair hearing has already be held under Disqualification Hearings B above
 - Right to renegotiate any repayment schedule if the assistance unit's economic circumstances change
 - Necessity to return the signed repayment notice within 30 days indicating an agreement to make restitution and the chosen method of payment
- C. If a court convicted an individual of an IPV or a waiver of the right to an administrative disqualification hearing was signed on or after October 1, 1996, the entire household is ineligible for TCA for the following periods of time:
1. 6 months after the first finding of fraud
 2. 12 months after the second finding of fraud
 3. Permanently after the third finding of fraud
 4. The length of 1 and 2 above can be shortened by fully repaying the fraudulently received TCA benefits
- D. If an individual signed the waiver of the right to an administrative disqualification hearing or was convicted in a court of law after October 1, 1996 for an IPV and the fraudulent act occurred prior to October 1, 1996, an individual sanction is imposed as follows:
1. 6 months after the first finding of fraud
 2. 12 months after the second finding of fraud
 3. Permanently after the third finding of fraud
- The length of the penalty (numbers 1 and 2 above) cannot be shortened by paying back the fraudulently received benefits.

ADDITIONAL INFORMATION

- Application — Fraud

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- Sanctions — Fraud & Fraudulent Misrepresentation
- Appeals and Hearings — Intentional Program Violations